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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAJINDER KUMAR JHAMB,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-74229

Agency No. A070-947-994

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Rajinder Kumar Jhamb, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen and reconsider. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

abuse of discretion, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny the petition.

The BIA did not abuse its discretion in denying Jhamb's second motion to reopen and reconsider as untimely and number-barred because it was filed over three years after the BIA's final order, *see* 8 C.F.R. §§ 1003.2(b)(2), (c)(2), and Jhamb failed to establish grounds for equitable tolling, *see Socop-Gonzalez v. INS*, 272 F.3d 1176, 1193 (9th Cir. 2001) (en banc) (equitable tolling available where "despite all due diligence, [the party invoking equitable tolling] is unable to obtain vital information bearing on the existence of the claim") (internal quotation marks and citation omitted); *see also Alvarez-Garcia v. Ashcroft*, 378 F.3d 1094, 1097 (9th Cir. 2004) (regulations requiring that aliens in exclusion proceedings apply for adjustment of status with district director are not unconstitutional).

Jhamb's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED.